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S1 PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION – D. Becakowski (5/4/99)

Comment Summary S1-1: The proposed Millennium Pipeline Project will be located in part of Pennsylvania's Lake Erie Coastal Zone, and the Pennsylvania CZM Program will require a consistency certification. One consistency certification sent to this office will suffice for both the FERC certificate and the COE permits.

S1-1 Thank you for your comment. The PADEP issued a consistency determination on April 16, 2000.

S2 PENNSYLVANIA GAME COMMISSION – B. Ray (5/5/99)

Comment Summary S2-1: We have determined that except for occasional transient individuals, this project should not affect any endangered or threatened species or bird or mammal recognized by the Pennsylvania Game Commission within the Commonwealth of Pennsylvania. We do not anticipate any long term adverse impacts on any critical or unique habitats as a direct result of this project.

S2- Thank you for your comment.

S3 CONGRESS OF THE UNITED STATES, 18th DISTRICT, NEW YORK – N. Lowey (6/7/99)

Comment Summary S3-1: Residents of several Yonkers neighborhoods through which the pipeline would cross strongly oppose the project primarily because they feel the draft EIS does not address a wide range of issues related to construction and operation of the pipeline. In addition, concerns have been expressed by Westchester County Executive Andrew Spano about impacts on the neighborhood, municipal and county levels have not been seriously evaluated, and that there appears to be no further municipal review of the projects. I support Westchester County's call for an SDEIS to enable the county and its municipalities to complete their review of the proposed project.

Comment noted. We expanded our discussion of potential impacts in the urban areas of Westchester County. We have also recommended that Millennium continue to work with the affected municipalities to develop appropriate mitigation for potential impacts on traffic, emergency services, and public safety. We do not believe that SDEIS is needed to address these concerns. However, on March 16, 2001, we issued an SDEIS because Millennium amended a portion of the route in Westchester County. We have responded to all comments made on the DEIS and addressed in detail site-specific issues raised in these comments. Also, see response to comment S12-1.

S4 PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION – K. Carr (4/13/99)

Comment Summary S4-1: It is our understanding that the proposed project route through Pennsylvania is no longer being considered for construction. To complete section 106 responsibilities, the artifacts from the Erie County archaeological sites should be prepared for curation project according to the current State Museum standards and submitted to the State Museum for permanent curation, pending landowner consent.

Thank you for your comment. No construction is proposed on land in Pennsylvania.

S5 NEW YORK STATE THRUWAY AUTHORITY – J. Hohman (5/27/99)

Comment Summary S5-1: In addition to the NYS Thruway, the Authority also has maintenance jurisdiction responsibilities on I-81 and I-287 and an Occupancy and/or Work Permits will be required at each site. Please note that the Authority requires abandoned pipes to be grout filled.

S5- Thank you for your comment. Section 2.7 of the FEIS has been expanded to include this information.

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S6 NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS – M. Brower (6/4/99)

Comment Summary S6-1: A concern with organic soils is the subsidence that occur as a result of wind erosion and decomposition for the organic material. Subsidence is an important factor to consider when planning the burial depth of the pipeline in these organic soils. The depth of the water table at the proposed time of construction and the stability of the soil will also influence the burial depth.

S6-1 Millennium has developed a final site-specific plan for crossing the black dirt area in Orange County (see FEIS appendix E2). The plan takes into consideration points raised in the June 4, 1999 letter to Richard E. Hall Jr. from the NYSDA&M. The plan also considers both archaeological and paleontological issues. A discussion of the final plan is included in part II, section 2.1 of the SDEIS and sections 2.3.3 and 5.2.2 of the FEIS.

Comment Summary S6-2: Several other items to consider when developing the plan are: whether concrete coated pipe will be used in this area; the agricultural consultant for this area should have experience with this type of soil and should be on site at all times during construction; the monitoring period for the black dirt area should be extended up to five years after the final restoration; and a draft copy of the construction plan should be provided to the Orange County Soil and Water Conservation District, Orange County Cornell Cooperative Extension, and each affected landowner for review and comment.

See the response to comment S6-1

S7 NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS – J. Lacey and M. Brower (6/2/99)

Comment Summary S7-1: NYSDA&M recommends Millennium's development, and the FERC's inclusion, of an illustrative figure which corresponds with the ECS text, showing the accommodation of segregated subsoil conservation for farm areas that are underlain by very shallow bedrock. NYSDA&M is willing to work together with the project staff on the figure's draft review.

S7- Millennium revised its ECS to address a number of comments (see revised ECS in appendix E1)

Comment Summary S7-2: NYSDA&M recommends if either the "Niagara Spur System Alternative" of the Leidy Interconnect system alternative" advance beyond the phase of further study prior to the development of the FEIS, for incorporation as a modification of the Millennium Pipeline Project, that this agency, in conjunction with project staff, be afforded the timely opportunity to a) evaluate and incorporate the mitigation for respective soils and terrain into a supplementary edition of the project ECS, b) identify locations for detailed soils and substrata engineering investigation and c) recommend location-specific segments for minor variation of alignment, offset from the conventional parallel-and-adjacent placement of multiple pipeline.

Comment noted. If any of the route alternatives are filed as projects with the Commission, these projects would be subject to the same level of review as the Millennium Pipeline Project and the parties would be provided with an opportunity to comment.

Comment Summary S7-3: The data in Table 4.1.1-1 has potential value for more than just the blasting location aspect of pipeline construction. Depending on the data source(s), intended context and final draft, the table could be useful for better evaluation and developing additional pipeline construction and corresponding restoration elements. Depending on the FERC's desired final context and format for Table 4.1.1-1, the NYSDA&M recommends re-evaluation of the bedrock data for all of the affected counties and including by MP of the additional areas where bedrock is <5 feet below surface.

S7-3 Table 4.1.1-1 lists locations that bedrock is likely to be encountered during trenching. Millennium anticipates that much of the bedrock could be ripped. Although soil surveys may include additional areas, due to the degree of variability and uncertainty in this data, Millennium did not include these additional mileposts. Areas where bedrock would be encountered and where isolated spot blasting may be necessary would be further refined during right-of-way surveying.

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Comment Summary S7-4: NYSDA&M recommends the re-evaluation of the centerline separating distance between Millennium's pipeline and the old Line A-5 for affected farmlands and the allowance for respective field adjustments, by: 1) evaluating the options for achieving the right-of-way work space needs for the replacement of the old Line A-5 pipe alongside the active Millennium Pipeline, with agricultural mitigation fully incorporated for affected farmlands, 2) pending the outcome of the above evaluation of options: a) identify those portions of the Millennium's open farmland right-of-way that are practicable in their engineering length between non-agricultural lands through which a 35-foot-centerline distance between Millennium's pipeline and the old Line A-5 can be implemented without frequent short-length changes, b) based on review by Millennium's Agricultural Inspectors and Construction Engineers evaluate and inventory the locations of such practicable lengths of open farmland for a 35-foot centerline separation, and c) implement the field adjustment of the agriculturally beneficial 35-foot centerline-to-centerline separation.

S7-4 We believe that to impose a 35-foot separation in agricultural fields would result in greater environmental impact and would be an unnecessary precaution given the uncertainty of the future and type of use of Line A-5.

Comment Summary S7-5: NYSDA&M recommends that it be a participant in the draft review and comment phase of Millennium's contingency plan for over wintering agricultural areas and is prepared to work with project staff to that end.

Comment noted. We have added consultation with NYSDA&M on the contingency plan for overwintering agricultural areas.

Comment Summary S7-6: NYSDA&M recommends that clarifications regarding the final restoration schedule, minimum and variable depth of deep ripping/heavy duty subsoiling, sequence of 4 inch or larger size rock clean up proceeding topsoil replacement, soil settling and compaction tests, installation of trenching barriers and breakers, and temporary new road on farmlands and restoration be incorporated within the ECS.

Millennium has revised its ECS (dated July 1999 and included as appendix E1 of the FEIS) to incorporate your comments (section III.F, Restoration; section III.E, Soil Decomposition; section III.H, Monitoring; and section III.A, General).

Comment Summary S7-7: NYSDA&M urges the deletion of the last sentence of the first paragraph in section III.E, Soil Decomposition of Millennium's ECS.

Millennium's revised ECS (dated July 1999) deleted the last sentence of the first paragraph in section II.E, Soil Decomposition.

Comment Summary S7-8: NYSDA&M recommends that the removal of construction right-of-way equipment bridging outside of the time window be based on site-and-situation specifics that are determined in the field in conjunction with regional staff of the Division of Fish and Wildlife.

We agree in principle with your comment. However, it is difficult to determine when the equipment bridges should be removed since there is no method to accurately predict when or where equipment may be needed to repair erosion or correct situations that arise after construction is completed. Generally, we require removal of the equipment bridges as restoration is completed to prevent the need for equipment to return later through restored areas to remove the bridges. If restoration of an area (such as an agricultural field) is postponed, bridges needed to access these areas may be left in place until the restoration is complete. However, if restoration is delayed over the winter, it may be better to remove the bridges rather than maintain them over the winter or prepare them to withstand spring floods. The need for equipment bridges to remain beyond completion of restoration would be determined in the field based on site-specific conditions and consultations with the landowner and appropriate state agencies (including the NYSDA&M). Millennium would need to request a variance from the FERC to leave any bridges in place.

Comment Summary S7-9: NYSDA&M reviewed the State Line Variation and the proposed Millennium Pipeline - Landfall to MP 36.7 and agrees with the Draft EIS recommendations against the State Line Variation.

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Comment Summary S7-10: NYSDA&M supports the Micha [Route] Variation and does not support the Town Line Road Variation.

Comment noted. See reevaluation of the Micha Route Variation in section 6.3 of the FEIS.

Comment Summary S7-11: NYSDA&M reviewed the Bauer Variations and supports either variation A or C and agrees with the statement in the DEIS that the ultimate route should be the one that best suits landowner needs.

S7-11 Thank you for your comment.

Comment Summary S7-12: Prior to finalization of the site-specific plan for the "black dirt" area of Orange County, the draft plan should be submitted to the NYSDA&M and the Orange County Soil & water Conservation District for review, comment, and approval.

The final black dirt plan was discussed in part II, section 2.1, of the SDEIS and a copy of it was included in appendix IIA of that document. It has been reviewed by both of these agencies and approved.

Comment Summary S7-13: NYSDA&M agrees that Figure 15 of the ECS adequately represents agricultural lands. It is different from Figure 2, and designates no area other than the stripped working side of the construction right-of-way for any and all vehicles. We agree with this designation in order to help minimize impacts in agricultural lands.

S7-13 Thank you for your comment.

S8 NEW YORK STATE DEPARTMENT OF STATE – G. Haight (6/8/99)

Comment Summary S8-1: Because the proposed pipeline will require a federal agency authorization and affect land and water uses and natural resources in the Great Lakes and Hudson River regions of New York State's coastal area, it is subject to the consistency provision of the CZM Act and must be reviewed by the NYSDOS for its consistency with New York's Coastal Management Program. Although the DEIS was prepared to satisfy the requirements of NEPA it is our understanding that because a number of state agency authorizations are necessary for the proposal the FEIS will be used to fulfill the requirements of SEQRA. The DEIS does not identify the applicable coastal management policies nor discuss in detail the effects of the proposed activity on or its consistency with them.

S8-1 Thank you for your comments. While the EIS identifies potential impacts and mitigation for these impacts, we do not believe we can speak for the NYSDOS in matters associated with the action's consistency with New York's coastal policies. We expanded our discussion of Coastal Zone Management Act in part II, section 2.3 of the SDEIS. The NYSDOS indicated that the additional material in that document will allow it to begin its assessment of the Millennium Pipeline Project's coastal zone consistency. The EIS is required to be in compliance with NEPA; it does not have to meet the requirements of SEQRA.

Comment Summary S8-2: The need for the project was not thoroughly discussed in the DEIS.

As discussed in section 1.1 and in other documents prepared by the FERC, the EIS does not provide an extensive analysis for the need of this project. Determination of need for the project is being dealt with on a track parallel to the environmental analysis. Information from that analysis along with the environmental record will be placed before the Commission for its review and ultimate decision on this project. The EIS does, however, include a brief description of the underlying purpose and need for the proposal.

Comment Summary S8-3: The pipeline would be constructed in and involve trenching and side casting of about 200,000 cubic yards of material over a 3 month period in Haverstraw Bay. Millennium has predicated a visible plume of suspended sediments measuring about 330 feet by 5,100 feet during excavation, covering an area of about 38 acres on a daily basis. The effects to the habitat and fisheries as a result of this trenching are not adequately addressed in this assessment. The FEIS should indicate how such impairments would be avoided, or include an alternative pipeline location that would not result in such impairments.

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S8-3 Comment noted. Millennium has revised its proposed construction method for the Hudson River to minimize impacts. See revised discussion in SDEIS part II, section 2.2.4 and sections 5.3.4, 5.6.3, 5.8.1, and 6.2 of the FEIS.

Comment Summary S8-4: Although the DEIS includes a very brief discussion of some alternatives to crossing Haverstraw Bay, possible alternatives that need further investigation and analysis include, but are not limited to, use of existing pipeline rights-of-way and Hudson River crossings, termination at Bowline Point, or a river crossing from within existing industrial areas.

The discussion of the Haverstraw Bay/Hudson River crossing has been expanded to include alternate pipeline systems, alternate construction crossing techniques, and the use of alternate routes (see sections 3.2.7, 5.3.4, and 6.1 of the FEIS, respectively). Since Millennium has identified its termination point at Mount Vernon as part of its proposed project, we would need to identify the most environmentally preferable route to that location.

Comment Summary S8-5: The existing character of the land that would be crossed by the pipeline is not included in the DEIS. There is no analysis of potential effects on active and passive recreation in the High Tor park, and its visual, cultural and ecological resources. The DEIS must fully address siting and design conflicts in these areas.

S8-5 The EIS lists land use by county in tables 4.8.1-1 and 5.8.1-1. To describe land use in each county would be excessively repetitive. However, we have expanded our description of the pipeline crossing of the urban communities of Yonkers and Mount Vernon in section 4.8.2 and 5.8.2 of the FEIS. The pipeline crossing in High Tor Park would be in an area where the pipeline would be installed in the ditch of the old Line A-5, which would be removed. While sections 5.8.3 and 5.8.4 of the DEIS do not specifically describe impacts on High Tor Park, these sections do describe construction impacts on active and passive recreation and visual resources. Ecological impacts are described in section 5.4 and cultural impacts are described in section 5.9. In accordance with CEQ's regulations regarding EIS preparation (which specifically state that EISs should be analytic not encyclopedic), discussion on specific sites is limited to those with unique features. Where known, the EIS does identify siting and design conflicts. However, since the pipeline would be installed within or adjacent to existing rights-of-way for most of its length, siting and design conflicts would be minimized.

Comment Summary S8-6: We must remind the FERC of its obligation and those of the applicant pursuant to the consistency provisions of the Federal CZM Act. These provisions require, among other things, federal agencies to inform applicants that such a certification must be submitted to a State's coastal management agency (the NYSDOS in New York) at the same time the application for authorization is submitted to a federal agency. Had the FERC informed the applicant of this requirement, it is likely that the DEIS would have included the necessary information in support of a consistency certification.

We requested that Millennium provide an update on the status of other permits, including the coastal zone management consistency determination in March 1998. Millennium filed an application with the NYSDOS in late 1998 and has been in contact with the NYSDOS regarding additional information requested. Millennium filed a revised consistency determination dated March 2001 with both the FERC and the NYSDOS. In April 2001, the NYSDOS filed a letter stating that with the issuance of the SDEIS, it had sufficient information to begin its review of the project for CZMA consistency. As stated in our response to comment S8-1, it is the state's responsibility to determine coastal zone management consistency. Therefore, while the FEIS now includes an expanded discussion of the relevant issues associated with this determination, we have not and cannot make a determination. See revised discussion in part II, sections 2.3 and 3.0 of the SDEIS and sections 5.8.1 and 6.2 of the FEIS regarding the coastal zone consistency and the Hudson River alternatives.

S9 PENNSYLVANIA FISH AND BOAT COMMISSION, DIVISION OF ENVIRONMENTAL SERVICES – R. Tibbot (6/3/99)

Comment Summary S9-1: It is strongly recommended that the FEIS revisit the issue regarding the possibility of contaminated sediment resuspension to insure that sediments to the depth of trenching - not just the surface - actually are clean enough to preclude contaminant resuspension and redeposition impacts on aquatic life with anticipated construction methods.

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S9-1 The amended Lake Erie Report prepared by Beak International (February 1999) and the technical review by the Pittsburgh COE and the ERDC were used as a basis for our analysis in the EIS. Based on this report, the pipeline would cross through an area that has had little evidence of recent sediment deposition so that it is unlikely that more than the near surface of the sediments are contaminated. Sediment depths greater than about 14 inches are pre-industrial and contaminants at greater depths would be the result of natural processes. See response to comment F9-9, section 4.3.3 and 5.3.3 of the FEIS, and part II, section 2.2.3 of the SDEIS.

Comment Summary S9-2: Apparent discrepancies between the December 1997 report and the DEIS also should be noted. The Fitchko report reference on page 4-14 of the DEIS mentions Ontario Ministry of the Environment and U.S. EPA mercury guidelines which are not exceeded by 73 of the 93 surface sediment samples, while page 3.48 of the December 1997 report instead states, that mercury concentration in 73 of the 93 samples were below detection limits.

S9-2 We have corrected inaccuracies in our reporting of the information from the Fitchko (1977) studies in section 4.3.3 of the FEIS.

S10 PENNSYLVANIA BOAT AND FISH COMMISSION, NONGAME AND ENDANGERED SPECIES UNIT – A. Shiels (6/4/99)

Comment Summary S10-1: The Pennsylvania Natural Diversity Inventory database and our own files indicate that the cisco, or lake herring, is known from the proposed route of the Millennium Pipeline in Lake Erie. Although the status of the lake herring is currently extirpated from Pennsylvania, the fishes of this state are currently under review for reclassification. Relatively new occurrences of the species have been documented in Pennsylvania and it has been proposed to be listed as endangered in the Commonwealth. To protect this species, potential spawning areas should be avoided.

S10-1 Thank you for your comment. Since the spawning season for lake herring is typically in November and December (i.e., after planned lake crossing construction), no impacts are anticipated on this fish species if still present in Lake Erie. We concur that minimal adverse impacts on this species would be anticipated.

Comment Summary S10-2: We commend the implementation of directional drilling at the Lake Erie Landfall as this technology is sound and appears to be the most non-invasive method for species in our jurisdiction.

S10-2 Thank you for your comment.

S11 NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION – S. Poelvoorde (6/3/99)

Comment Summary S11-1: Correct the Use of the Area entry for the Catherine Valley Trail (Chemung County, Approximate MP 198.5) in table 4.8.3-1 to read "This trail, a converted railroad bed and canal towpath, connects Soaring Eagles/Mark Twain State Park with Watkins Glen State Park. This trail is owned by the New York State Office of Parks, Recreation and Historic Preservation."

S11-1 Comment noted. Tables 4.8.3 and 5.8.3.2 of the FEIS have been corrected.

Comment Summary S11-2: Correct the Use of the Area entry for the Catherine Valley Trail (Chemung County, Approximate MP 198.5) in table 5.8.2-1 to read "New York State Office of Parks, Recreation and Historic Preservation to be notified 1 week before construction begins."

S11-2 The text of table 5.8.3.2-1 has been revised to reflect this comment.

Comment Summary S11-3: Correct the mailing list entry for OPRHP's regional representative to read "New York State Office of Parks, Recreation and Historic Preservation - Finger Lakes Region, Sue Poelvoorde."

S11-3 Comment noted. The mailing address will be corrected. You should also provide this information directly to Millennium.

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Comment Summary S11-4: The impact of construction on Soaring Eagles/Mark Twain Park is inadequately identified on Table 4.8.3-1. Facilities at this park also include a network of multi-use trails located on the property where the pipeline will cross. The region will require that Millennium follow the its guidelines for trails as outlined on page 6 of the ECS.

S11-4 Comment noted. The text of tables 4.8.3-1 and 5.8.3.2-1 has been revised. Millennium has committed to cross this area using the construction standards in section II.G (trail crossings) of the ECS.

Comment Summary S11-5: With regards to the restoration plans State Parks will require that all disturbed areas in Soaring Eagles/Mark Twain and the Catherine Valley Trail be mulched with straw that is free from noxious weeds.

Site-specific mitigation measures, including the type of mulch to be applied to the right-of-way, may be developed during easement negotiations between the NYOPRHP, the PIPC, and Millennium.

Comment Summary S11-6: The importance of wetlands is not adequately addressed in the document. Appropriate timing for wetlands crossing are not addressed.

We believe that a restriction on the time period for pipeline construction within wetlands is unnecessarily restrictive since the duration of all construction activities in any given wetland would be limited to about 30 days, the right-of-way width would be minimized to only that needed for construction, and staging areas would be located outside of wetlands, where possible. Therefore, impact on wetlands and displacement of wildlife is limited in aerial extent and would be of a temporary nature. Continuous construction through a given area is generally more efficient and would result in less overall impact and disturbance. Timing restrictions may be appropriate in wetlands, if recommended to protect endangered or threatened species. However, neither the FWS or NYSDEC has commented about the need for such restrictions.

Comment Summary S11-7: Additional consultation with the SHPO should occur with respect to the crossing of the Chemung Canal in Chemung County at about MP 198.5.

S11-7 Millennium did not obtain access to the Chemung Canal area until 1999. We, and the New York SHPO, would have an opportunity to comment on the project impacts on the Chemung Canal when a mitigation plan is prepared. No construction would begin until this plan is reviewed and approved by us and the New York SHPO.

Comment Summary S11-8: The region believes that the 50-foot permanent right-of-way is excessive.

S11-8 A 50-foot-wide permanent right-of-way is typically required to allow pipeline maintenance activities and to minimize encroachment on the pipeline. However, reduced right-of-way widths may be established during easement negotiations between Millennium and individual landowners.

S12 NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION – R. Benas (5/28/99)

Comment Summary S12-1: The NYSDEC does not feel that the FERC's DEIS meets the requirements of NEPA. It does not adequately describe that proposed project [or] fully identify the actual impacts that will occur from its construction and installation. The DEIS defers details on almost all of the significant environmental issues to some later date, including the Hudson River crossing, endangered species issues, stream and wetland crossing techniques, development of mitigative measures for land and water impacts, and the Lake Erie crossing alternatives, among other things.

The Millennium Pipeline Project EIS has been prepared to provide information to the Commission to allow it to make a decision on a project that involves the construction of approximately 417 miles of pipeline and appurtenant facilities. The construction procedures and route described in the EIS are in fact quite detailed and the EIS adequately describes the anticipated environmental impact on the affected resources. As specified in the CEQ regulations, NEPA's purpose is not to generate paperwork and EISs should be "analytic" not "encyclopedic".

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While the DEIS defers certain construction crossing techniques, this was done in deference to the state of New York which had not yet completed its review of the project, and to allow further public comment on the project and recommended and proposed mitigation. One of the difficulties in compiling the DEIS was the lack of project-specific comments from Federal and state agencies. Based on comments received on the DEIS, the FEIS includes more detailed analyses and updated information on construction crossings. However, to allow appropriate Federal and state agencies to complete their analyses, we deferred finalization of certain mitigation measures to the completion of these analyses. We prepared the SDEIS (issued March 16, 2001) for the project. It included an analysis of an amended route in Westchester County, New York, and updates on several issues such as waterbody crossings, including Lake Erie and the Hudson River, alternatives, and construction in the black dirt area of Orange County, New York.

Comment Summary S12-2: The DEIS does not support the conclusion that the use Millennium's proposed mitigation, along with employment of the FERC's mitigation procedures would reduce impacts from the project to a "minimal level" of impact. Rather, the DEIS repeatedly defers quantification of environmental impacts on a later date and the project does not currently meet NYS Water Quality Standards.

S12-2 Environmental impacts have been quantified in section 5 of the EIS. While construction impacts are to a large extent unavoidable, most are temporary and proposed mitigation would minimize these impacts on the greatest extent practicable. We deferred mitigation, where appropriate, to allow other Federal and state agencies to complete their analyses of the project on a parallel, but different time table. Since publication of the DEIS, the NYSDEC has issued its section 401 Water Quality Certificate (December 8, 1999). The recommended changes for crossing waterbodies are included in part II, section 2.2 of the SDEIS and section 5.3 of the FEIS.

Comment Summary S12-3: The DEIS states that 540.9 acres of forested land will be permanently affected and converted to grasslands. It recognizes that the pipeline crosses several state forests which will result in a change from forest to herbaceous cover and that the impact of clearing would be greatest in forested areas resulting in the greatest change in structure, environment of the vegetation community, and long term impact. The FERC has not recommended any mitigating measures to reduce this impact. Only the FERC has the authority to require Millennium to minimize impacts. What will the FERC's role be in resolving differences that may occur between the NYSDEC and Millennium concerning appropriate mitigation?

We do not normally require a company to replant trees in all temporary work areas where trees have been cut for construction. Typically, these areas are allowed to return to forest naturally. Our experience has been that natural revegetation accomplishes the same goal with a much higher chance of success. Replanting of trees in specific areas would be between Millennium and the landowner, and the FERC would support such requirements if not unreasonable. The NYSDEC is the land management agency for the state forests. We would welcome the opportunity to review specific recommendations for mitigation of forest impact. It would be helpful for the NYSDEC to file them with the Secretary. The state can impose its own requirements if reasonable. NEPA does not require mitigation.

Comment Summary S12-4: The DEIS identifies the presence of two sugar bushes, presumably on private lands, and makes a specific recommendation to avoid or minimize removal of these trees. No such recommendation is made for state forest lands which have considerable commercial, environmental, and open space values to citizens of the state.

Sugar bush is considered an economic crop which requires mature live trees. While timber is also considered an economic crop, its value is not realized until it is cut down. It is for this reason that we attempt to avoid sugar bush. We must also balance the different resources in the siting of a linear project of this magnitude. Avoidance of forests would increase impacts on agricultural fields and scrub-shrub wetlands, which are also of concern in this project.

The preferred route for much of the proposed pipeline follows the existing Line A-5 right-of-way. Construction through state reforestation land would use standard construction practices with restoration as specified by the NYSDEC. The crossing of other state park areas, as listed in DEIS table 5.8.3.2-1, would follow the procedures in section II.G of Millennium's ECS and/or be developed in consultation with the managing agency. Our recommendation in section 5.8.3.2 of the EIS requires that Millennium file the finalized plans for the crossings of state land for review and written approval by the Director of OEP.

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Comment Summary S12-5: It appears from this DEIS that public land issues are viewed as of little importance, and thus, need not be addressed in any depth. The DEIS places the entire responsibility for negotiations of mitigating measures upon the NYSDEC. While it will do everything it can to minimize impacts as it negotiates with Millennium, it is ultimately the FERC's responsibility to ensure impacts are minimized.

We disagree. Public lands that would be crossed by the pipeline have been identified and are listed in tables 4.8.3-1 and 5.8.3.2-1 of the EIS. There is no prejudice either for or against public versus private lands. In siting a lengthy linear project such as the Millennium pipeline, there would invariably be both public and private lands crossed. Managing agencies or landowners may identify and request reasonable mitigation measures to reduce site-specific resource impacts. We would monitor construction and restoration of the project to ensure compliance with the certificate conditions, which include the mitigation measures identified in the EIS.

Comment Summary S12-6 : Table 5.8.3.2-1 should include the statement that mitigation of and compensation for loss of lands, timber, open space and recreational values will be developed with the NYSDEC, and all measures agreed to by Millennium and the NYSDEC should be included in section 7.2 of the FEIS.

S12-6 We do not know the ultimate resolution of the terms of the easement agreement between the state and Millennium. Table 5.8.3.2-1 presents Millennium's proposed mitigation; we have not received the NYSDEC's comments on the proposed mitigation or what additional mitigation may be required. Issues of compensation for lost timber are beyond the scope of the EIS. We note that the easement for operation of the pipeline would not involve the loss of land.

Comment Summary S12-7: On page 2-13 of the DEIS the removal of existing pipeline through all waterbodies, between MP 285.6 and MP 376.4, is discussed except the East Branch of the Delaware River. Such unnecessary removal may violate the NYS Water Quality Standards and the existing line should be left in place since it presents no known hazards.

We believe that the decision to either abandon the pipe in place or remove it is best determined on a case-by-case basis. While use of the existing trench may reduce environmental impacts in areas where there is rock and would avoid additional right-of-way requirements, we have no objections to leaving the pipe in place particularly where the pipeline would be installed by conventional bore (Neversink and Walkill Rivers, and Pochuck Creek) or directional drill (Chenango and Ramapo Rivers). However, we are aware that the landowner has requested that the pipe be removed from Pochuck Creek (MP 352.4) because it is exposed, and Millennium has agreed to remove it. Because the Neversink River contains the federally endangered dwarf wedge mussel, we have recommended that the pipe be abandoned in place.

Comment Summary S12-8: The DEIS identifies 116 trout streams; however, description and discussion of these streams, and warmwater fisheries, is incomplete. No recreational/economic benefits or the ecology of these streams are discussed and should be included.

A detailed discussion of all aspects of fishery resources is not warranted in a document that is intended to be concise according to CEQ regulations. We believe it is not necessary to fully characterize the ecology of each stream or its recreational and economic importance. Pipeline construction would only directly affect one very small segment of most streams for a maximum period of 1 to 3 days and the entire construction sequence would be completed between 44 and 60 days in any one area. Therefore, most impacts would be temporary. An overview of waterbody impacts is sufficient. Analysis of each waterbody is not required by NEPA. However, we have revised the FEIS, where appropriate, to include specific comments or new information on affected fishery streams.

Comment Summary S12-9: On page 4 the second sentence of the second paragraph should read "...and those Class C designated as..."

S12-9 Comment note: Section 4.3.2 of the FEIS has been revised.

Comment Summary S12-10: Additional sediment coring in the Hudson River and Haverstraw Bay is needed prior to construction to further evaluate sediment contaminant levels and understand how contaminants will be relocated due to dredging.

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S12-10 Comment noted. See response to comment G80-4 and to F9-5.

Comment Summary S12-11: In New York, Class C and D streams may not require a permit to disturb their bed or banks unless they support trout or are navigable but they are protected under Article 17 of the ECL and the 401 Water Quality Certification with respect to sedimentation, turbidity, and other parameters.

S12-1 Thank you for your comment. Since release of the DEIS, Millennium has made significant changes in its stream crossing plans and has greatly reduced the number of open-cut crossings to minimize in-stream construction and related impacts. The NYSDEC issued a section 401 Water Quality Certificate for the project on December 8, 1999.

Comment Summary S12-12: The DEIS recognizes Haverstraw Bay as "one of the most important fish and wildlife habitats in the Hudson." The NYSDEC agrees and urges alternative crossings be further considered.

S12-12 Comment noted. We added more detail about the fisheries in the Hudson River/Haverstraw Bay area in section 4.3.4 of the FEIS and revised our discussion in section 5.3.4 to include new information provided by Millennium. Additional discussion about fisheries in the Hudson River was included in our EFH Assessment (issued January 17, 2001). Alternative Hudson River crossing locations are addressed in part II, section 3 of the SDEIS and section 6.2 of the FEIS.

Comment Summary S12-13: On page 4-20 of the DEIS, critical feeding habitat for shortnose sturgeon was identified along the boundary between the fresh and salt water. This is the area most likely to experience a significant turbidity plume. The DEIS states that overwintering fish will likely be found in deeper waters of the navigation channel; however, no data is given on the significance for wintering.

S12-13 Consultation with the NMFS is ongoing regarding the project's impact on the shortnose sturgeon. We issued our BA on January 17, 2001, which addresses the impact on the shortnose sturgeon. We have revised sections 4.6 and 5.6 of the FEIS to include the updated information.

Comment Summary S12-14: On page 4-23 of the DEIS, the green floater is on the proposed state threatened list and the rayed bean is proposed for state endangered species list. The SDEIS should reflect this information and include a survey for these species at and below the crossing sites and anywhere equipment bridges may be placed. Impacts on the species and what steps will be taken to protect them should be evaluated.

S12-14 We have revised sections 4.6 and 5.6 of the FEIS to include the proposed new state status of the green floater and rayed bean. We also note that Millennium would perform surveys for these species before construction, if requested by the NYSDEC, and would prepare a construction mitigation plan in the event that these two mussel species are found.

Comment Summary S12-15: Wetlands have not been inspected by either state or Federal staff. The DEIS does not discuss the values and benefits of the wetlands that will be crossed by the pipeline or used for excess workspace.

S12-15 DEIS Table G3 provides the NYSDEC Regulated Wetland Number and NWI classification of each wetland that would be crossed by the proposed project. Table G3 also lists the length of the crossing, the area affected by construction and operation of the project, and summarizes the feasibility of directionally drilling these resources. Additionally, table 5.7.3-1 summarizes the number of wetlands by NWI classification, and acreage of wetland impact along the proposed alignment. The specific effect of the project on each wetland is not described, as this would be extremely redundant in a document that is intended to summarize impacts. Instead, section 5.7.1 describes the typical impacts of construction on the wetlands that would be crossed. Appendix E contains the mitigation measures that would be used to minimize impacts on wetlands.

See section 5.7.3 of the FEIS for discussion of wetland functions. While we understand that there would be a loss of specific wetland functions, there would be no loss of functionality since the wetlands would not be converted to upland habitat. The COE through the section 404 permit process and the NYSDEC through its section 401 water quality certificate process may require mitigation as compensation for this loss of function

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over time and may require an analysis to determine functional losses. We do not feel that any additional analysis or mitigation, beyond what would be required by the COE and NYSDEC, is necessary.

Comment Summary S12-16: The DEIS does not discuss the New York State boat launch at Mongaup and potential impacts on use of this area during construction.

S12-16 Millennium states that current plans for construction at this location are for the work to take place in the fall, when the primary recreational boating season would be over. An alternative boat launch area, located nearby, is available during construction for the approximate 30-day construction duration. Signs would be posted directing boaters to the alternative launch location. Access to the affected boat launch would not be permitted during construction, since the boat launch is on the existing pipeline right-of-way, and thus in the construction work area.

Comment Summary S12-17: There is no discussion on how stream crossings will impact fishing opportunity or navigation. For example, the East Branch, West Branch, and the main Delaware River support 48,000 angler trips per years.

S12-17 Impact on recreational fishing would be minimal at the West Branch Delaware River since Millennium proposes to bore the crossing. Similarly, the partial bore and diverted flow open cut of the East Branch Delaware River would reduce the likelihood of excessive sedimentation and elevated turbidity during construction. Turbidity effects should be minimal and barely perceptible to downstream users. Shoreline fishing access at any waterbody crossing would only be restricted in the immediate area of construction. Flumed stream crossings may not be wide or deep enough for boats.

Comment Summary S12-18: There appeared to be no discussion of the impacts of pipeline construction on hunting opportunities and this should be discussed in the DEIS.

S12-18 In general, the construction of a pipeline through undeveloped forested areas does not have a long term impact on hunting and fishing. The sequential nature of pipeline construction, proceeding at an average rate of about 3,000 to 3,500 feet per day, results in temporary displacement of game species to similar habitats nearby, which often return soon after completion of construction (see section 5.4.2 of the EIS). Where the pipeline would cross private hunting clubs, Millennium would develop mitigation in consultation with the landowners. Because of the short duration of activities in any one location, no significant impact on local recreation would be anticipated. Furthermore, construction is scheduled to be completed before the hunting season.

Comment Summary S12-19: On page 5-6 of the DEIS there is a very sketchy discussion on erosion and susceptibility to erosion of the various soil types found along the right-of-way. The DEIS should provide maps that locate areas where the most likely erosion occurrences will occur and it would be helpful to cross reference these identified areas with the various ecological resources present. There is no discussion concerning soil compaction in wetlands.

S12-19 Comment noted. The primary purpose of an erosion and sedimentation control plan is to provide basic construction and operation procedures that would be implemented on a project-wide basis to mitigate environmental impacts. Site-specific measures for soil protection, such as for the black dirt area (part II, section 2.1 and appendix IIA of the SDEIS and appendix E2 of the FEIS) or the Chataqua Gorge crossing (section 5.5.2 of the FEIS) have been developed. Additional measures may be developed during easement negotiations or during state review and permitting of the project. Soil compaction is of most concern in agricultural and residential areas, but can also be a concern in all areas including wetlands (see section 5.7.1 of the EIS).

Comment Summary S12-20: On page 5-11 it states that groundwater discharge may be critical in some trout streams near the pipeline. If trench construction interrupts this flow, significant impacts on trout populations could occur. This potential impact is not discussed in the DEIS. Groundwater discharge to trout streams is critical for maintaining proper temperatures.

S12-20 Because the pipeline would cross most waterbodies perpendicularly or nearly so, there would be little likelihood that groundwater discharge would be interrupted since groundwater flow direction to streams is typically perpendicular to the channel. Further, the pipeline trench would occupy a very short section of the entire

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stream length and any possible interruption of groundwater flow would occur only in this small area. Therefore, potential impacts would be negligible.

Comment Summary S12-21: On page 5-15 of the DEIS it states that "Impacts on water temperatures would be expected to be minimal because of the limited length of stream bank canopy that would be cleared for the pipeline crossing." The SDEIS should address this impact and discuss the impacts as they relate to New York's Water Quality Standards.

S12-2: Comment noted. Project information on stream crossing methods is discussed in section 5.3.2 of the FEIS.

Comment Summary S12-22: On page 5-15 of the DEIS the extent and magnitude of impacts on aquatic life from construction activities is not fully described.

S12-22 See comment response S12-23.

Comment Summary S12-23: On page 5-16 of the DEIS, the probability that "open cut" trenching would violate NYS Water Quality Standards for turbidity and settleable solids if done in flowing water should be discussed as well as how the project will meet or violate these standards and what proposed mitigation measures would be implemented.

S12-23 The significant reduction in the number of open cut crossings now proposed by Millennium reduces the project's likelihood of violating state water quality standards. Our Procedures and Millennium's ECS also have a number of measures intended to prevent or reduce sedimentation effects on waterbodies crossed during construction. In our opinion, the overall project sedimentation effects on aquatic resources is likely to be minor and short-term although some impacts would remain unavoidable. The NYSDEC included additional protection measures in its section 401 Water Quality Certificate issued December 8, 1999.

As for fully discussing the engineering aspects of all waterbodies, as specified in the CEQ regulations, NEPA's purpose is not to generate paperwork and EISs should be concise. It would be unrealistic and undesirable to fully discuss in the EIS all the data supporting all the analyses on waterbody crossings.

Comment Summary S12-24: On page 5-17 of the DEIS it is reported that 487 waterbodies will be crossed, 265 using dry crossing and 222 using open trench. The FERC also reports that 314 streams and waterbodies are over 100 feet wide. Field inspections reveal that only a small fraction of these number of streams are actually over 100 feet.

S12-24 Page 5-17 of the DEIS states that the project would cross 19 waterbodies that are over 100 feet wide, not 314. The DEIS was accurate at the time it went to print. However, Millennium has made changes to its proposal as a result of ongoing consultations with state agencies and the issuance of the NYSDEC section 401 Water Quality Certificate. The FEIS has been revised to cover these changes on waterbody crossings.

Comment Summary S12-25: Waterbody crossing techniques are discussed on page 5-18 of the DEIS. The NYSDEC has found that the use of in-stream sediment barriers to be ineffective.

S12-25 See response to comment F4-42 and additional discussion in section 5.3.2.2 of the FEIS.

Comment Summary S12-26: The reason to use dry crossing techniques addressed on page 5-18 should be expanded to include Class C (T) or higher waters.

S12-26 We believe your comment should refer to page 5-19 of the DEIS. Through consultations with the NYSDEC, Millennium has significantly reduced the number of open cut stream crossings.

Comment Summary S12-27: On page 5-20 of the DEIS it is reported that residential impacts following open trench crossings would continue for 12 hours to several days. If open cut crossings occurred at the same time on tributaries of the same stream there could be 7 or more continuous days of turbid water downstream of the crossing. This should be discussed in the SDEIS.

S12-27 Because of limitations in pipeline construction equipment and personnel, it is not possible to construct all stream crossings in a watershed at the same time. In reality, the general procedure is for only a handful of streams

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in any one construction spread (a spread typically covers 40 to 60 miles) to be worked on at one time. Also, the number of open cut (wet) crossings has been significantly reduced and no single drainage sub-basin contains more than 2 streams that would be open cut.

Comment Summary S12-28: The West Branch and the main branch of the Delaware River area share border water with the state of Pennsylvania. Pennsylvania has indicated that it has not been informed as to possible water quality problems associated with the open cuts proposed for the East and West Branches of the Delaware River. The FERC should ensure that all parties of interest are informed of the implications of the proposed project.

S12-28 Agencies in Pennsylvania have been on the mailing list for the project since the beginning and have had opportunities to review the project. The West Branch Delaware River crossing would be about 7.3 river miles northeast of the Pennsylvania/New York border; the East Branch Delaware River crossing would be about 1.7 river miles east of the border. With the modification to "hybrid" boring and bored crossings of the East and West Branches Delaware River, respectively, water quality impacts would be greatly reduced.

Comment Summary S12-29: While actual water column turbidity may subside soon after actual construction, turbidity plumes would have serious impacts on high quality recreational streams such as the East and West Branch Delaware Rivers, and their tributaries. The DEIS has not characterized the stream segments below the crossing areas to evaluate the quality of these habitats or to develop site specific mitigation proposals to avoid impacts.

S12-29 Environmental impacts have been quantified in section 5 of the EIS. While construction impacts would be to a large extent unavoidable, most are temporary and proposed mitigation would minimize these impacts. With the use of dry crossing techniques on all but 13 of the affected waterbodies, turbidity and sedimentation to downstream areas would not be significant.

Comment Summary S12-30: Directional drill bores are discussed on page 5-24 of the DEIS and the NYSDEC recommends that in addition to the Genesee, Cohocton, Susquehanna, Neversink, and Wallkill Rivers, that the East and West Branches of the Delaware be evaluated further for possible directional bores.

S12-30 Millennium now proposes to cross the West and East Branches Delaware River in the dry by boring and by a "hybrid" bore, respectively. The hybrid bore would consist of using a combination of a conventional bore across part of the river and diverting water around the portion that cannot be bored.

Comment Summary S12-31: Neither Millennium nor the FERC have explored the possibility of using a direct horizontal microtunneling jacking system. The SDEIS should thoroughly discuss and consider the use of this method for stream crossings.

S12-31 Millennium indicates that large work spaces would be needed on both sides of a stream crossing for microtunneling methods to accommodate the water-tight, lined vertical tunneling shafts. Longer crossings may require a mid-stream vertical shaft and, in shallow crossings, there is the potential for slurry to exit into the waterbody because of required slurry pressures. This method is the most expensive and technically complicated construction technique, and Millennium does not propose its use. In addition, we have found that some of the same geologic conditions that restrict directional drilling also restrict microtunneling. A number of the remaining open cut locations are not likely to present optimal conditions for a microtunneled crossing and our preliminary findings are that the method is probably not suitable for use on the project. In addition, other dry crossing methods are more practical.

Comment Summary S12-32: Hydrostatic testing is discussed on page 5-27 of the DEIS and proposed hydrostatic testing uses waters from several watersheds that have or may have zebra mussels include the Hudson River, Lake Erie, and Susquehanna River. Water taken from these sources should be discharged back into those waters.

S12-32 Millennium's ECS states that, if needed, hydrostatic test water would be disinfected to prevent the spread of invasive species. Our Procedures require that Millennium obtain written permission for hydrostatic test water withdrawal from and discharge into state-designated exceptional value waters, waterbodies that provide habitat for federally listed threatened and endangered species, or waterbodies designated as public water supplies.

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This would provide appropriate state agencies with an opportunity to stipulate additional conditions for these withdrawals and discharges when the permits are issued.

Comment Summary S12-33: On pages 5-29 through 5-33 the Lake Erie crossing is discussed. The DEIS should put the impacts of discharges from the jetting operation of Lake Erie in better context, 600 feet wide by 93.5 miles constitutes over 6,800 acres of bottom with measurable deposition. Of this amount, 2,400 acres of deposition would occur in U.S. waters.

S12-33 See response to comment F4-8. Section 5.3.3 of the EIS has been revised.

Comment Summary S12-34: On page 5-33 of the DEIS indicates that most of the species in the benthic community are tolerant of disruption. What is the basis of this assertion? It is also stated that fish spawning would not be affected; however, it appears that the discussion only concerns the area around the bore exit. What about the remaining 6,800 acre area of sedimentation from the jetting operation?

S12-34 This statement is intended to mean that many benthic species are accustomed to some amount of shallow burial because soft sediments are often naturally disturbed, especially during storm events or where cross-bottom currents are common. Physical disruption by the jetting of the trench would result in loss of benthos along the trench.

Many of the species of fish present in Lake Erie spawn in shallow water areas, including bass, yellow perch, and walleye. Therefore, trenching for most of the route would not affect spawning of these species because the shallow water shoreline area would be directionally drilled. Some species that spawn in deep water may have some habitat altered, but this would only represent a small portion of the total habitat (10,000 square miles) in Lake Erie since the construction corridor would be narrow and the plume area small. Most importantly, construction would mostly occur outside of the spawning period for most species of fish in the lake.

Comment Summary S12-35: The Hudson River is discussed on page 5-33 of the DEIS and although it is identified as an important area providing spawning, nursery, and wintering habitat for a vast number of species, construction related impacts upon those species using the Hudson River and Haverstraw Bay is not identified. For example, the DEIS does not indicate that the turbidity plume will cover up to 1,383 acres.

S12-35 Comment noted. See revised discussion in part II, section 2.2.4 of the SDEIS, the EFH Assessment, and section 5.3.4 of the FEIS.

Comment Summary S12-36: Dredge spoil will be placed on both sides of the Haverstraw Bay pipeline excavation prior to backfilling and it is expected that these spoils will be subject to considerable daily erosion and dispersion throughout Haverstraw Bay and the Hudson River. We are concerned that a high flow may cause additional resuspension and dispersion.

S12-36 Comment noted. The proposed construction method has changed. See revised discussion in part II, section 2.2.4 of the SDEIS and section 5.3.4 of the FEIS.

Comment Summary S12-37: Millennium proposes to install breaks in spoil piles to ensure that fish movement in shallow areas is not blocked by underwater spoil piles. The NYSDEC is concerned that increased river velocity and potential scour will occur at these breaks and the SDEIS should provide evidence this will not occur.

S12-37 Comment noted. The proposed construction method has changed. See revised discussion in part II, section 2.2.4 of the SDEIS and section 5.3.4 of the FEIS.

Comment Summary S12-38: The FERC should consider the use of closed bucket to reduce sediment resuspension during dredging activities at the Hudson River crossing.

S12-38 Comment noted. See response to comment S12-36.

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Comment Summary S12-39: The DEIS refers to state standards for contaminants found in sediments, but does not specifically say what standards were used. Since they found that contaminant levels were below standards it is important to know whether contaminant levels are being evaluated in a consistent manner based on currently accepted guidelines.

S12-39 The discussion in section 4.3.3 of FEIS has been revised to eliminate confusion in the reporting of contaminant standards.

Comment Summary S12-40: There is no data in the inventory for Lake Erie, in the vicinity of the proposed pipeline. Fitchko's sampling found total mercury levels exceeding the guidelines in 20 of the 93 samples. Do these "represent natural background concentrations for mercury in Lake Erie" as stated on page 4-14 of the DEIS?

S12-40 Fitchko's sampling found no sediment samples exceeding the Ministry of Ontario's lowest effect level of 0.2 µg/g, only that 20 out of the 93 samples had detections of mercury, with the maximum at 0.19 µg/g. The other 73 samples were below the detection limit of the analytical equipment used (<0.04 µg/g). Natural background concentrations as represented by pre-colonial numbers presented in the Lake Erie Report (February 1999) are between 0.03 and 0.075 µg/g. See revised discussion in section 4.3.3 of the FEIS. Also, see response to comment F9-9.

Comment Summary S12-41: A study by Blais et. al. (1997) is referenced in the DEIS. However, the NYSDEC does not recognize this study as a valid peer reviewed study and it should not be utilized in the SDEIS.

S12-41 Within the constraints of the methods employed, the Blais et. al. paper does provide useful information directly related to pipeline construction effects on stream environments in New York.

Comment Summary S12-42: On page 5-37 of the DEIS sediment and turbidity are discussed and the NYSDEC disagrees with the characterization that impacts on aquatic life will be minimal and short term. The FERC should recharacterize such impacts in more objective terms.

S12-42 A number of studies have been done on the effects of pipeline construction on aquatic habitats. In most instances, the investigators report that impacts are localized and short-term. Reid and Anderson (1998) summarize their review of data presented in the literature by stating that "open-cut pipeline crossings across waterbodies typically result in short-term increases to sediment load." They further summarize impacts by stating that "damage to downstream aquatic life and habitats are generally short-term and non-residual." On the basis of these studies, it is reasonable to state that impacts may be minimal and short-term in an objective manner. If the NYSDEC is aware of any studies that contradict the studies we used, we would welcome the opportunity to review and consider them.

Comment Summary S12-43: On page 5-39 of the DEIS there is a statement that reads "Since Millennium has not completed formal consultation with the state, the status of the state's fishery resource and concerns is uncertain..." Much of the impact of pipeline construction remains unknown because the final right-of-way selection, crossing techniques, wetland impacts and impacts on aquatic species are all unknown.

S12-43 See response to comment S12-1

Comment Summary S12-44: The FERC has not completed section 7 consultation with the appropriate Federal and state agencies. Until this is completed the status of the Hudson River and Neversink crossings cannot be finalized. The DEIS does indicate that impacts on endangered species are considered significant and will require additional mitigation which has not yet been developed.

S12-44 The FEIS includes additional information on endangered and threatened species and an update on the status of FERC's section 7 consultation with FWS and NMFS. See section 5.6 of the FEIS.

Comment Summary S12-45: The NYSDEC notes that as of this date, Millennium has not incorporated a state recommendation on mitigation for rattlesnakes in their construction plan, nor has the DEIS included a complete discussion of this issue.

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S12-45 Section 5.6.4 of the DEIS presents mitigation measures proposed by Millennium, including a line change to protect rattlesnake habitat and the requirement that a snake monitor be present during construction to relocate snakes if a timing restriction cannot be met. To our knowledge, which included review of all filed correspondence between the state and Millennium, all of the state's recommendations have been incorporated into the mitigation measures proposed by Millennium. If the NYSDEC has additional mitigation requirements, these may be included in a final mitigation plan that Millennium would file with the Secretary for review and written approval by the Director of OEP before construction.

Comment Summary S12-46: On page 5-49 of the DEIS, impacts on wetlands are discussed; however, specifics concerning the particular value and benefit of each wetland and how those values and benefits could be impacted by the various wetland crossings, extra work zones or nearby crossings are not provided.

S12-46 See response to comment S12-15.

Comment Summary S12-47: the DEIS should include the reasons for any additional temporary work zones required within regulated wetlands as well as an evaluation of alternatives at least 100 feet outside wetland areas. The use of wetlands for stockpiling of nonwetland soils is considered as fill and is inconsistent with state regulations.

S12-47 Section 5.7.3 of the EIS summarizes why the extra workspaces are required and that they have been avoided and minimized through our requests to Millennium. Table I2 in appendix I of the FEIS provides a more detailed site-by-site justification for the extra workspaces. We believe that the use of these extra workspaces is reasonable.

We share your concerns about stockpiling upland soils in wetlands. However, under a very specific set of circumstances and with the use of proper protective measures, we would consider authorizing the temporary storage of upland soils in wetlands. We should emphasize that the actual need for stockpiling upland soil in wetlands is infrequent and is primarily restricted to instances where an unavoidable wetland is positioned on a slope requiring side slope construction. We have authorized this activity on a previous project with the condition that a 4-to-6-inch-thick layer of weed-free straw be spread over the surface of the affected portion of the wetland to separate the soils. The straw is then removed after the upland soil is removed. Our experience indicates that these protective measures can be implemented successfully. However, we have recommended that Millennium file the location of such areas by milepost. We also require that Millennium conduct concurrent consultations with the NYSDEC and the COE to ensure compliance with all state and Federal wetland permit conditions and requirements.

Comment Summary S12-48: On page 5-52 of the DEIS it is unclear what is meant by "we have reviewed these extra work areas and found them reasonable." It is not clear if 41.6 acres of wetland affected by extra work reflects the minimized area impacted.

S12-48 A total of 41.6 acres of wetland would be affected by temporary extra work spaces. This figure reflects the amount of wetland impact after Millennium modified the use of extra work spaces in response to the FERC's comments regarding greater use of upland areas for extra work spaces. The phrase "we have reviewed these extra work areas and found them reasonable" indicates that the FERC staff has studied the proposed location of extra work spaces within wetlands, and the rationale for such work spaces, and determined that construction of the project would be impractical without their use.

Comment Summary S12-49: Before the NYSDEC can issue a 401 Water Quality Certificate for the Federal 404 permit that the COE must issue on wetland work, we will require information on site specific wetland crossings and mitigative measures.

S12-49 The NYSDEC issued its section 401 Water Quality Certificate on December 8, 1999. The COE has indicated it has sufficient information for its permitting process.

Comment Summary S12-50: On page 5-54 of the DEIS a statement reads "Millennium identified no ponding from beaver activity in the construction work area during its surveys." There are areas where beaver dams and ponding is evident. This should be corrected.

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S12-50 When Millennium performed an inventory of this alignment, the presence of beaver was not observed. Because the beaver is a transient species, the location of their activity is constantly changing. Therefore, areas where beavers would be active at the time of construction may not necessarily be coincident to locations where they are presently active. See revised discussion in section 5.7.3 of the FEIS.

Comment Summary S12-51: Impacts of pipeline construction on hunting and fishing and access via Mongaup boat launch has not been addressed and disruption of these activities could have significant impacts on local economic and to recreation opportunity for local sportsman.

S12-51 See response to comments 12-16 and 12-18. Because of the short duration of activities in any one location, no significant loss of local recreation-related spending should occur.

Comment Summary S12-52: Concerning major route alternative, the FERC should further evaluate the Niagra Spur Alternative for the Lake Erie crossing and the Algonquin pipeline to transport gas across the Hudson River.

S12-52 Comment noted. See revised discussion in sections 3.3 and 6.2 of the FEIS. However, it should be noted that while impacts on these resources may be reduced, impacts on other resources would be increased.

Comment Summary S12-53: Staff concludes that Millennium has not addressed many of the potential impacts that the gas pipeline could cause while the FERC requests Millennium to conduct more assessment. This deferment further reduces the validity and the timeliness of the DEIS and supports the NYSDEC's opinion that an SDEIS should be prepared.

S12-53 We issued an SDEIS on March 16, 2001, which includes updates of studies that had not been completed when the DEIS was issued. The DEIS was prepared from the information that had been filed by Millennium and mostly general comments received from Federal, state, and local agencies, and the public. As a result of the project-specific comments received on the DEIS, field work conducted by Millennium with the NYSDEC and the COE in 1999, and additional analyses completed by Millennium, the discussion in the FEIS has been expanded to include this information and address a number of issues for which an analysis could not be completed in the DEIS. Although we note that the COE and other agencies may not have completed their project review at the time of the printing of the FEIS, the final recommendations can be incorporated into their respective permits. It is not reasonable to require that the Commission Certificate include the conditions of all permits that are issued for this project. For that reason, the Certificate allows for other agencies with permitting authority to complete their own negotiations with Millennium, provided that these negotiations (and resulting conditions) are consistent with any Certificate conditions that the Commission may issue and do not prohibit or unreasonably delay the construction or operation of the project if approved by the Commission.

Comment Summary S12-54: The DEIS does not identify the stream crossing methods that Millennium is actually considering for the majority of streams. Therefore, the DEIS does not contain an adequate assessment of the potential resources that could be impacted or the potential impacts of the proposed project.

S12-54 The DEIS did identify stream crossing methods as proposed by Millennium at the time of printing of the DEIS. We were aware that the NYSDEC had only begun its review of the project and was developing further mitigation for waterbodies as part of its permitting authority under section 401 (also see response to comment S12-53). Table H1 in appendix H of the FEIS has been revised to include the revised stream crossing methods developed between Millennium and the NYSDEC and filed by Millennium after publication of the DEIS. We believe that the DEIS and FEIS adequately identify potential resources that could be impacted by construction and operation of the proposed project and do not believe it is necessary to quantify impacts on a site-by-site basis since these impacts have been addressed either generically, cumulatively, or site-specifically if the resource is unique.

Comment Summary S12-55: While the Director of OEP can implement or modify the FERC order, the Director cannot modify the conditions of the State 401 Water Quality Certification [see DEIS recommendation 6(a)].

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S12-55 We concur. The Commission Certificate allows for the NYSDEC to modify plans for waterbody crossings in its water quality certification (also see response to comment S12-53). However, DEIS recommendation 6(a) does not concern waterbody crossings, it concerns Millennium's construction contracts.

Comment Summary S12-56: Construction methods must be finalized before the state can issue a section 401 Water Quality Certificate (see DEIS recommendation 18).

S12-56 Comment noted. See updated information in part II, section 2.2 of the SDEIS and appendix K of the FEIS. Millennium received its section 401 Water Quality Certificate on December 8, 1999. We recognize that there are factors that would affect final plans for construction of any project. As mentioned, other permitting agencies may have additional permit requirements which may affect construction methods, site-specific plans, restoration, etc. In addition, there are usually some areas where pipeline personnel were denied access to properties, so various types of survey information cannot be gathered until after a certificate is issued for a project. For these reasons, we include conditions in certificates for updated survey information to be included in the final construction plans. However, as stated in response S12-53, other permitting agency requirements must be consistent with any Certificate conditions the Commission may issue and must not prohibit or unreasonably delay the construction or operation of the project.

Comment Summary S12-57: Geotechnical evaluations as to the feasibility of directional bores omits the Canisteo River from consideration. This river should be included (see DEIS recommendation 20).

S12-57 Millennium currently proposes to cross the Canisteo River using a conventional bore. Since a bore would accomplish the same result (e.g., a dry crossing) as a directional drill, we do not believe this waterbody needs to be tested for a directional drill.

Comment Summary SS12-58: See DEIS recommendations 26 and 27 - these evaluations should be addressed in the SDEIS; see DEIS recommendations 28 to 30 - the development of site specific plans should be completed before the state issues a 401 Water Quality Certificate; see DEIS recommendation 32 - Millennium will not be able to begin construction before they prepare the Biological Opinion because the state will not issue a 401 Water Quality Certification. This is also true for DEIS recommendations 33, 34, 35, 38, and 39.

S12-58 The NYSDEC issued a section 401 Water Quality Certificate on December 8, 1999. Millennium's response to DEIS Recommendation No. 26 is included in the FEIS. The FEIS also includes an updated discussion in section 5.0 of DEIS Recommendations 27 through 32, where appropriate. Also, see response to comment S12-55. Since any plans would be developed with appropriate agencies, the agencies would have the opportunity to directly comment on their content. The FERC Certificate does not dictate the requirements of the 401 water quality certification process or what must be included before it is issued. We issued a BA on January 17, 2001 for the project. Millennium would not prepare a Biological Opinion. A Biological Opinion would be prepared by the FWS and/or NMFS, if required.

Comment Summary S12-59: Regarding page 20 of Millennium's ECS, trench dewatering in wetland areas should be exclusively into sediment traps outside the wetland and not into "A heavily vegetated area outside the wetlands."

S12-59 Our Procedures state that trenches must be dewatered in a manner such that no heavily silt-laden water flows into wetlands or waterways. Millennium's ECS is consistent with our Procedures on this point. Therefore, we believe that these dewatering measures are adequate to protect and minimize impact on wetland and aquatic resources.

Comment Summary S12-60: With regards to DEIS appendix E, extra work areas should be located at least 100 feet from wetland boundaries and in the case of NYSDEC wetlands, cut vegetation should be removed from wetland and disposed of outside the wetland and its 100 foot adjacent area.

S12-60 In accordance with our Procedures, Millennium would locate extra work areas at least 50 feet from wetland resource areas. We believe this distance adequately protects wetlands. In areas where it is impractical to locate extra work areas at least 50 feet from wetlands, Millennium must submit site-specific construction plans and a site-specific explanation of the conditions that would not permit a 50-foot setback in accordance with

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section VI.C.1.b of our Procedures. Cut vegetation would be removed from and disposed outside of wetlands. The NYSDEC may establish a 100-foot buffer zone for its regulated wetlands, but we will not require it.

Comment Summary S12-61: With regards to DEIS appendix G, it should be confirmed that the entirety of the wetland is actively farmed and that extra work area is within farmed portion of the wetland.

S12-61 We have confirmed, through the review of the construction alignment sheets aerial photographs, that all wetlands described as farmed in table I2 of appendix I of the FEIS appear to be farmed.

S13 ASSEMBLY, STATE OF NEW YORK – C. Schumer (6/18/99)

Comment Summary S13: Your consideration of Ms. Supa's 13 questions will be appreciated:

1. Was the cost of slick boring included in the cost of the Union Center Reroute?
2. When will test boring be done to determine feasibility of slick boring under the guy wires on the Union Center Reroute?
3. If Millennium does not slick bore under the guy wires and use an access road to go around the guy wires how will they construct the pipeline without going off the existing right-of-way? In some cases, going to the other side may not be possible?
4. How will Millennium avoid wetlands without going out of the right-of-way?
5. How will Millennium replace the 3 wire high tensile wire that need to be cut after boring under guy wires?
6. How will Millennium plan to construct the pipeline on a steep side slope and stay within the right-of-way? Poles are as close as 34 feet from the centerline of the pipe.
7. How will Millennium avoid the seasonal spring that is in the construction area?
8. What are Millennium's plans to for crossing a watershed for a spring, pond and restored wetland?
9. How will construction be done to avoid compacting the soils and effecting the water flow of a shallow stream?
10. What are Millennium's plans to construct on a steep side slope between the powerpoles during wet weather? Rain storms are frequent and unpredictable and construction at this time would result in extreme environmental damage.
11. Due to high induced voltage, how will Millennium avoid any step and fetch incident?
12. How will Millennium provide access to homes impacted by construction?
13. How will Millennium construct the pipeline between the powerpoles between homes on Bradley Creek Road.

S13-1 Millennium responded to the 13 questions in Ms. Supa's April 12, 1999 letter regarding the proposed route in the Union Center area as follows:

The cost of slick boring was included in the cost of the proposed route.

Test boring would not be required to determine feasibility of slick boring under the guy wires on the proposed route.

3. Millennium would install the pipeline using slick bore methods in close proximity to the poles as shown on typical right-of-way cross sections ST-8525-0000-B-1086 (filed January 15, 1999) and ST-8525-0000-A-1078 (filed March 9, 1999). As shown on those drawings, the construction work area would go off of the NYSEG right-of-way for construction equipment and vehicular access.
4. Two small wetland crossings are on the Supa property along the currently proposed route: W11UC is a PEM wetland with a crossing distance of about 44 feet; W12UC is a PEM/PFO wetland with a crossing distance of about 69 feet. Construction through these wetlands would be completed in accordance with Millennium's ECS. These wetlands are small enough that extra work space is not required.
5. By using the slick bore method, the guy wires would not be affected. Thus, guy wire replacement would not be required.

The construction work area along the Supa property is not "steep side slope" or sidling. Standard industry construction procedures would be used through this area. Millennium would be able to work within 34 feet of the poles, and thus there is no need to leave the construction work area.

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7. The seasonal spring is in close proximity to the pipeline near station 12802+19 and within the proposed construction work area. Millennium is considering a minor realignment that would avoid this seasonal spring.
8. Millennium's current plans for construction across the Supa property can be found on CAS number 74 of 137. Consistent with Millennium's ECS, measures would be taken to avoid or minimize impacts on surface and ground water quality. Millennium is unaware of any restored wetland on the Supa property in the construction work area, although Millennium understands that Mr. Supa has discussed future plans to restore a wetland a few hundred feet away from the construction work area.
9. Millennium does not believe that the spring is shallow, and thus does not believe that the spring would be impacted by construction activities. Millennium's ECS contains measures to ensure the soils would not be compacted following construction. The ECS also contains measures to protect, during construction, wells and springs that provide domestic water.
10. With the exception of special fault mitigation for work near power lines, standard industry construction procedures would be used to construct in this area. As discussed above, the construction work area across the Supa property is not a sidling area. The CAS provides the location of all erosion and sedimentation control devices that would mitigate the effects of runoff during storm events.
11. A proper investigation would be carried out of electrical interference, grounding and other electrical effects involving the determination of current flow in the underground structures and overhead electrical networks.
12. During ditching operations, Millennium would either have transportation available for landowners whose homes are affected by construction until the trench is completed and/or install steel plates over the ditch to allow access across driveways. Millennium intends to complete construction in these areas as quickly as possible.
13. Standard industry practices for construction on powerline rights-of-way would be used between the homes along Bradley Creek Road.

The FEIS includes minor route variations on the Supa and Lewis properties to minimize impact on these properties (see section 6.3.9). In addition, we have recommended that Millennium conduct testing above the Supa spring and develop mitigation plans if the water source to the spring would be affected (see section 5.3.1.2 of the FEIS).

S14 NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION – D. Carter (6/18/99)

Comment Summary S14-1: Section 5.9 identifies the number of miles crossing or acres of impacted forest lands. Nowhere in the DEIS is this type of information presented for state parklands. Likewise, the vegetation cover types on these state parks are not identified.

- S14- Table 5.8.3.2-1 indicates the approximate crossing length of each public interest area crossed by the pipeline, potential impacts from construction, and any proposed mitigation measures. Section 5.8.3 of the FEIS has been expanded to include a summary of park lands affected. Vegetation cover type changes are discussed in section 4.5 and 5.5 of the EIS; wetlands are discussed in section 4.7 and 5.7 of the EIS.

Comment Summary S14-2: In 1988, nearly 17,000 acres of land were purchased by the state for use as state park (Sterling Forest State Park). The DEIS does not recognize the existence of this state park or show it as being impacted by the proposed route.

- S14-2 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been modified to include information on the newly created Sterling Forest State Park.

Comment Summary S14-3: The Sterling Forest State Park-Doris Duke Wildlife Sanctuary was created during the acquisition of the park and the proposed alignment would impact this area. It is strongly recommended that alternative routes be evaluated so as to eliminate impact to this important area.

- S14-3 We were unaware that the pipeline would cross the Doris Duke Wildlife Sanctuary at time of publication of the DEIS. Section 4.4.2 and 5.4.2 of the FEIS have been revised. The pipeline would cross 3,518 feet of the sanctuary where the existing pipeline would be replaced by the proposed pipeline. Construction would require only a temporary expansion of the existing right-of-way and would result in minimal impact on wildlife habitat.

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Reroutes to avoid the sanctuary would require new right-of-way through the Sterling Forest or Harriman State Park. See discussion in section 3.4 of the FEIS.

Comment Summary S14-4: The maps that show the proposed route for the pipeline across the state are somewhat dated, of poor quality, and do not provide a clear understanding of the routing through state parkland. Final location and design through this area is subject to further negotiations.

S14-4 Millennium would install the new pipeline adjacent to the existing pipeline in the Finger Lakes Region, including the crossings of the Catherine Valley Trail and Soaring Eagles State Park. In all other park land, Millennium would install the new pipeline in the ditch of the existing pipeline which would be removed. Site-specific concerns, issues about routing, and mitigation would need to be provided to both Millennium and the FERC before these can be included in the FEIS. However, development of final site-specific mitigation measures would occur during easement negotiations with Millennium.

Comment Summary S14-5: the DEIS provides information on alternative routing for some major resources such as the Hudson River crossing. Similar analyses must be prepared for crossing through state parklands.

S14-5 The evaluation of route variations is primarily premised on the significance of the resources potentially affected and secondarily on land ownership considerations. Because of the location and size of the park, it would be difficult to route around it without significant impacts on other resources.

Comment Summary S14-6: In areas of special concern such as stream crossings, the right-of-way could reach 150 feet and the width of the right-of-way is of particular concern to state parks especially through areas of relatively undisturbed forests and recreational areas.

S14-6 The pipeline would be placed adjacent to or within existing rights-of-way, which would limit impacts on those associated with expanding an existing right-of-way instead of creating new right-of-way through previously undisturbed forest or recreational areas.

Comment Summary S14-7: Construction through recreational areas such as trails will disrupt normal park operation, decrease the quality of recreational experience, and have the potential to cause further environmental impact by displacing/relocating users. The right-of-way width must be minimize to the fullest extent possible.

S14-7 Construction disruption would be limited to a period of between 30 and 45 days. Since the pipeline would not cross any developed recreational areas and Millennium proposes to maintain trails open throughout construction, impact on recreational activities would be minimal. See response to comment S11-8 on right-of-way width.

Comment Summary S14-8: The proposed alignment will impact the Old Croton Aqueduct State Historic Park (listed on the NRHP and is a NHL) and the Catherine Valley Trail/Chemung Trail (eligible for NRHP). Detailed plans must be submitted to the NYS OPRHP before any construction in the vicinity of the aqueduct will be allowed.

S14-8 Millennium states that it has been consulting with the NYSHPO and the Old Croton Trailway State Historic Park Historic Site Manager. If the recommended ConEd Offset/Taconic Parkway Alternative is used, impact on these parks would be avoided.

Comment Summary S14-9: Mitigation is an area of substantial deficiency in the DEIS. For example, in Table 5.8.3.2-1 mitigation for impacts on parklands is often described as "notification in writing 1 week before construction." This is not mitigation. Design considerations addressing potential visual and noise impacts must also be considered.

S14-9 It is not uncommon for the Commission to issue certificates conditioned on the completion of consultation and the development of final site-specific mitigation plans. We note that table 5.8.3.2-1 contains mitigation beyond notification 1 week before construction. For instance, in the Harriman State Park, Millennium has specified that vegetative screening at road crossings and ridgelines would be planted following construction. Millennium has also committed to develop timing restrictions and other mitigation measures in consultation with the NYSOPRHP. These measures and those identified in the ECS are the minimum mitigation that would be

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implemented when crossing park lands. Additional measures may be developed between Millennium and the NYSOPRHP.

Comment Summary S14-10: Construction and operation of a utility right-of-way can be considered alienation of parkland that is a switch from open space natural resource conservation use to a utility use. In those parks with a 6f status under the Land and Water Conservation Fund, such action is considered a Conversion and requires review and approval by the NPS.

S14-10 We do not consider the construction and operation of an underground pipeline to be a conversion of use. With the exception of the placement of aboveground structures, recreational activities would be permitted to continue within the operational right-of-way. An existing utility easement currently crosses NPS land. Since Millennium proposes to stay within this easement, no parkland is being converted to utility use.

Comment Summary S14-11: We have examples in parks where the utility has recognized the importance of mitigation in the form of replacement lands or other consideration. Utility rights-of-way can serve as corridors for some recreation activities through mutual agreement with the property owner. The DEIS is relatively silent in this regard. The abandonment of pipeline between Delaware and Rockland Counties should be assessed for the possible use of these abandoned areas for recreational purposes.

S14-11 Millennium proposes to remove the existing Line A-5 between Delaware and Rockland Counties (MPs 285.6 to 376.4) and install the proposed pipeline in approximately the same location. Therefore, this right-of-way would not be abandoned, but would continue to be maintained as an easement for the pipeline. Because individual landowners retain title to the land, Millennium has no right to provide recreational facilities on the right-of-way. In many cases, property owners require that pipeline companies take measures to prevent use of the right-of-way for unauthorized recreational purposes.

Comment Summary S14-12: We note that FERC consultation with FWS is required to determine whether any federally listed endangered or threatened species or their critical habitat occur in the vicinity of the project and, if so, the Commission is required to prepare a BA. We request that for all pipeline routing alternatives potentially affecting state parkland, a survey be conducted by qualified personnel.

S14-12 Millennium has consulted with TNC and the NYNHP on the location of endangered and threatened species that may be affected by construction. We believe that the nature and number of these consultations are adequate, and that blanket surveys on all state lands are not required to protect state or federally listed endangered and threatened species.

Comment Summary S14-13: The statement on page 2-15 regarding temporary erosion controls indicated that they would be installed immediately after soil disturbance. Such controls should be installed before any substantial disturbance.

S14-13 For the most part, erosion controls cannot be installed until after the construction work area has been cleared and graded. Also, see response to comment F4-14.

Comment Summary S14-14: The FEIS should clearly outline the process that will be followed in arriving at an agreement with the NYSOPRHP on final alignments, timing of construction and mitigation.

S14-14 If the Commission certifies the project, the alignment would be that described in the FEIS, or as approved by the Commission, and identified in detail on Millennium's final CAS. The EIS also identifies general and site-specific mitigation that would be implemented at a minimum. The final details of construction and additional site-specific mitigation would be developed between Millennium and the landowner, in this case the NYSOPRHP, during easement negotiations.

Comment Summary S14-15: We recognize the difficulty in determining the level of detail to include in a DEIS. At the same time we note the need for considerable more detail regarding alignments affecting parkland and their alternatives and mitigation. This additional information should be provided in an SDEIS.

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S14-15 We believe the EIS contains sufficient detail on affected resources and mitigation for construction-related impacts on these resources to allow the Commission to make its decision regarding the environmental record. There is no regulatory requirement that the EIS contain the details of each easement agreement.

Comment Summary S14-16: Add the following to the acronym and abbreviation list: NYSOPRHP (New York State Office of Parks, Recreation, and Historic Preservation and PIPC (Palisades Interstate Park Commission); on page 3-18 "Eric" should be changed to "Erie"; and on page 3-25 change the sentence to read "We received several comments regarding the use of route variations between approximate MPs 370.0 and 380.0 though property managed by the Palisades Interstate Park Commission and NYSOPRHP, which includes Harriman State Park."

S14-16 Comment noted. The appropriate sections of the FEIS have been corrected

Comment Summary S14-17: On page 4-35 the first sentence of State and Local Park Lands should read "State and local open space areas crossed by the pipeline would include the Catherine Valley Trail (a state Park facility) (MP 198.5), Soaring Eagles/Mark Twain State Park and Golf Course (MP 198.5), the Village of Dickinson Community Park and the Sterling Forest Area (MP 366.4). Also, additions to the third and fourth sentences should also be made.

S14-17 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised

Comment Summary S14-18: On page 4-35 the last sentence of Recreational Trails should be read "...those within Harriman state Park, the Old Croton Aqueduct State Historic Park and others in Westchester County."

S14-18 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised

Comment Summary S14-19: See the comment submitted on June 3, 1999 from the NYSOPRHP, Finger Lakes State Park Region for Table 4.8.3-1.

S14-19 See response to comment letter S11 dated June 3, 1999.

Comment Summary S14-20: Table 4.8.3-1, lands between the Appalachian Trail and the Sterling Forest Ski Center have been purchased for use as a state park.

S14-20 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised

Comment Summary S14-21: On Table 4.8.3-, Harriman and High Tor State Parks are jointly managed by NYSOPRHP and the PIPC. This should be noted for each state park located within the PIPC region.

S14-21 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised.

Comment Summary S14-22: On table 4.8.3-1 the Old Croton aqueduct State Historic Park is under the jurisdiction of the NYSOPRHP, Taconic Region. We note that this park would be crossed once not four times.

S14-22 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised. We agree that there would be only one crossing of the Old Croton Aqueduct State Historic Park.

Comment Summary S14-23: On Table 5.8.3.2-1, the Catharine Valley Trail is a NYS OPRHP facility

S14-23 See response to comment letter S11 dated June 3, 1999

Comment Summary S14-24: On Table 5.8.3.2-1, Soaring Eagle/Mark Twain State Park and Golf Course is primarily a golf course; however, the pipeline would cross a multi-use area.

S14-24 See response to comment letter S11 dated June 3, 1999.

Comment Summary S14-25: On table 5.8.3.2-1, the area between the Appalachian Trail and the Sterling Forest Ski Area is owned and managed by NYSOPRHP and the PIPC as Sterling Forest State Park.

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S14-25 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised. Final mitigation measures would be developed during easement negotiations, and therefore would not be included in the FEIS.

Comment Summary S14-26: On Table 5.8.3.2-1, under "Area Name" should read High Tor State Park and the text under "Proposed Mitigation/Action" does not refer to mitigation measures.

S14-26 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised. Also, see response to comment S14-25.

Comment Summary S14-27: On table 5.8.3.2-1, it is our understanding that the Old Croton Trailway will be crossed once not four times and the text under "Proposed Mitigation/Action" does not refer to mitigation measures..

S14-27 Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised. Also, see response to comment S14-25.

Comment Summary S14-28: On page 7-9, the FERC should include a recommendation that the company continue negotiations with the NYSOPRHP regarding the crossing of state parklands.

S14-28 Millennium would negotiate easements with property owners for all land required for construction of the pipeline. The easement negotiations would include mitigation for construction impacts and terms for operation and maintenance of the right-of-way. The actual terms and conditions included in the easement are outside of the scope of this EIS.

Comment Summary S14-29: Please update page A-3 of appendix A, DEIS Distribution List to include addresses for the NYSOPRHP.

S14-29 Comment noted. The FEIS distribution list has been amended to include the agencies listed.

S15 NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE – N. Russell (6/21/99)

Comment Summary S15-1: The FERC should reject pipeline construction on ConEd right-of-way between Buchanan and Millwood Substation and from Millwood to Sprainbrook Substation in Westchester County since this right-of-way is not suitable.

Comments noted. See additional discussion in part I, section 6.1 of the SDEIS and section 5.8.2 of the FEIS.

Comment Summary S15-2: The project location within NYSEG's right-of-way in the Towns of Owego, Maine, and Union may be too close to NYSEG's powerlines

Comment noted. See additional discussion in sections 5.8.1.2 and 6.3 of the FEIS and our recommendation that Millennium work with NYSEG regarding use of its right-of-way in the Towns of Owego, Maine, and Union.

Comment Summary S15-3: We encourage the FERC to fully explore the Algonquin alternative to the proposed Hudson River crossing at Haverstraw bay and the Niagara Spur System alternative to the Lake Erie crossing

Comment noted. See revised discussion in FEIS sections 3.3 (Lake Erie) and 6.2 (Hudson River) and part II, section 3.0 of the SDEIS.

Comment Summary S15-4: Millennium has seriously underestimated the amount surface and subsurface bedrock present on the right-of-way.

See revised discussion on the issues involved with construction in the ConEd right-of-way in part I, section 6.1 of the SDEIS and section 5.8.1.2 of the FEIS.

Comment Summary S15-5: Blasting on the ConEd right-of-way would be complicated and blasting between two energized lines would be difficult to conduct safely.

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See response to comment S15-4.

Comment Summary S15-6: The proximity of electric transmission conductors to ConEd's right-of-way and the effect of summer peak load conditions on wire safety zones have not been established. The distance between the proposed pipeline and in-board conductors of each structure should be depicted on drawings and typicals.

Comment noted. See additional discussion in section 5.8.1.2 of the FEIS.

Comment Summary S15-7: The presence of a pipeline in an electric transmission right-of-way creates the possibility of damage to the pipeline from induced fault currents.

Comment noted. See response to comment S15-1

Comment Summary S15-8: The difficulty of construction and ongoing operation of the pipeline would present significant reliability concerns since the transmission corridor contains several transmission lines critical to serving New York City. It is crucial that the transmission line not be subject to pipeline failure.

S15-8 Comment noted. See response to comment S15-1

Comment Summary S15-9: Because of Millennium's proposed construction location, the transmission line could not be safely operated during the construction period and any outages of these lines would severely hamper the operation of NYSEG's electric system. Millennium should work with NYSEG to establish an optimum location for the pipeline within NYSEG right-of-way.

Comment noted. See additional discussion in section 5.8.1.2 and 6.3 of the FEIS.

Comment Summary S15-10: To fully review the proposed facility, all proposed facilities, including appurtenances, must be identified and evaluated.

S15-10 Table 2.1-1 lists all aboveground facilities, including mainline valves and pig launching/receiving facilities. These facilities are also shown on the maps (see figure B1 in appendix B). Sheet 4 (Typical Mainline Valve) and Sheet 5 (Typical Launcher/Receiver) provide typical layouts of these facilities (see figure B3 in appendix B). These facilities would be installed within the permanent right-of-way that would be cleared for installation of the pipeline. Visual impacts are discussed in section 5.8.4, where we identified those aboveground facilities where there may be visual or noise impacts on nearby residences. Millennium states that it would develop plans for screening these facilities.

Comment Summary S15-11: Once information is developed, an analysis comparing impacts between the Niagara Spur System Alternative and the proposed action should be completed.

S15- Additional information on the Leidy Interconnection System Alternative is included in section 3.2 of the FEIS. However, there is no proposal or filing to the FERC nor a commitment to build this alternative on the part of the involved companies. Additional information on the Niagara River Alternative is included in section 3.3 of the FEIS. While this alternative avoids the Lake Erie crossing, it would involve significant construction in Canada that would need to be evaluated by the NEB as part of its concurrent review of the Canadian facilities being proposed by St. Clair and TransCanada.

Comment Summary S15-12: an analysis comparing the recently constructed 24-inch Columbia pipeline in lieu of replacing that segment should be made. This would avoid a new crossing of the Neversink River.

S15-12 Millennium states that use of the existing 24-inch-diameter pipeline at the Neversink River would impose restrictions that would reduce both pipeline capacity and pressures for shippers, almost all of which have requested delivery points downstream of the restriction (see new discussion in section 3.6.2 of the FEIS). We believe that this alternative would be impractical in the long run and that the proposed crossing method (e.g., conventional bore) would avoid impact on the dwarf wedge mussel.

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Comment Summary S15-13: the FEIS should address other aggressive, invasive species occurring at locations along the proposed right-of-way.

S15-13 We have included the Japanese knotweed and phragmites as a noxious weed that may be encountered along the pipeline route (see section 4.7 and 5.7 of the FEIS). Also, see response to comment F4-34.

Comment Summary S15-14: The FEIS should address the NYSDEC's request that Millennium be required to adopt additional measure for in-stream construction and adhere to the "windows" for pipeline installation.

S15-14 Because non-stream related construction access and other activities (restoration) may need to occur outside of construction windows specified for fisheries, it is unreasonable and not feasible to construct the project if such timing windows are uniformly specified for all construction activities. Also, see response to comment S7-8.

Comment Summary S15-15: Alternatives for the Hudson River/Haverstraw Bay crossing should be examined and included: directional drilling, directional drilling at another location with a shorter distance, using a smaller diameter pipeline, and system alternatives that would use the Algonquin pipeline system.

S15-15 Comment noted. See additional discussion in sections 5.3.4 and 6.2 of the FEIS.

Comment Summary S15-16: The FEIS should include further measures to avoid potential impacts on endangered species and include continued evaluation of system and routing alternatives.

S15-16 Comment noted. See sections 4.6, 5.6, and 6 of the FEIS for updated information

S16 NEW YORK STATE DEPARTMENT OF TRANSPORTATION – R. Russell (6/22/99)

Comment Summary S16-1: On page 5-80 the report should be corrected to address highways owned by towns, cities, or villages.

S16-1 Comment noted. Section 5.10 has been amended

Comment Summary S16-2: A NYSDOT Highway Work Permit will be required for any work within the state highway right-of-way.

S16-2 Comment noted. Section 5.10 has been amended

S17 PALLISADES INTERSTATE PARKS COMMISSION – C. Ash (6/18/99)

Comment Summary S17-1: In Table 5.8.3.2-1, under "Proposed Mitigation/Action" it states that the NYSDEC would be notified 1 week before construction in the Harriman State Park and Sterling Forest. The NYSDEC does not own this property.

S17-1 Comment noted. Table 5.8.3.2-1 of the FEIS has been revised.

Comment Summary S17-2: The property between the Greenwood Lake Measuring Station and the NYS Thruway was acquired in 1998 and is now state parkland. The DEIS does not recognize this.

Comment noted. Sections 4.8.3 and 5.8.3 of the FEIS have been revised.

Comment Summary S17-3: Land disturbance as proposed could be serious and may be inappropriate. Therefore, a full route must be fully carefully planned, then reviewed and approved by the PIPC on a site specific basis. The PIPC is the oldest interstate park commission in the nation.

We recognize your concern and concur that construction and restoration in park land must be planned to minimize impacts and restore the land as much as practical to preconstruction conditions. See revised discussion in section 5.8.3.2 of the FEIS.

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Comment Summary S17-4: The general soil conditions of the Hudson Highlands are sparse and unforgiving and the proposed activities would take a heavy toll on surrounding areas and recovery would be slow. The PIPC would review and approve Millenniums site specific plans.

The disturbance and impact would be confined to the construction work area, and would make use of the existing cleared right-of-way to minimize tree removal. While trees could take up to 125 years to mature to preconstruction conditions, some species would regenerate in 20 to 50 years.

Comment Summary S17-5 : The PIPC will require recognition from Millennium that the 1991 easement agreement provided only for the maintenance and replacement of in-kind pipeline.

Millennium states that the 1991 easement covers Columbia's Line 10388 between MPs 376.5 and 383.0 for that segment of existing 24-inch-diameter pipeline that Millennium would acquire and use. No construction would be required for this segment which includes the crossing of the Palisades Interstate Parkway.

Comment Summary S17-6: The PIPC will require that a new easement agreement be negotiated between the PIPC and Millennium.

Millennium would negotiate an easement for all land required for construction and operation of this project.

Comment Summary S17-7: The PIPC will require that Millennium adopt the NPS guidelines as a minimum for work on PIPC lands.

The terms and conditions of the easement are between the landowner and Millennium. Millennium is researching and evaluating the existing easements to determine if new easements would be required. If new easements are required, they would be negotiated as required by state law.

Comment Summary S17-8: The PIPC will require Millennium provide detailed site and job plans for review.

S17-8 These could be a part of your easement negotiations.

Comment Summary S17-9: The PIPC will require that any additional blasting be used only as a last resort and blasting sites would be reviewed and approved by the PIPC.

Millennium states that blasting would only be used as a last resort during pipeline construction, but that it cannot predict the location of blasting sites prior to construction. Thus, these locations cannot be approved in advance and incorporated into the agreement. The specific terms and conditions of easement agreements, including blasting and restoration, would be negotiated between agency representatives and Millennium.

S18 ASSEMBLY, STATE OF NEW YORK – J. Dinga (6/17/99)

Comment Summary S18-1: I support the Union Center Reroute Variation without deviation along the NYSEG Powerline Corridor.

Thank you for your comment.

S19 ASSEMBLY, STATE OF NEW YORK – J. Parker (6/18/99)

Comment Summary S19-1: The DEIS is inadequate because it fails to address all requirements under NEPA. In addition to NEPA we request the FERC defer to, and apply New York State law to this application.

S19-1 The EIS is a Federal document for use in making a decision on the project at the Federal level. It has been prepared to follow our NEPA regulations which were developed in conjunction with the CEQ guidelines. There is no requirement for this EIS to address New York State law. However, we note that Millennium is complying with state law during the COE and NYSDEC review of the project as part of the section 401 and section 404

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permit process. If New York State feels that additional review is necessary, it can attempt to do so as long as the Federal public convenience and necessity determination is met.

Comment Summary S19-2: The DEIS fails to comply with NEPA provisions that require a DEIS to identify and discuss unavoidable adverse environmental impacts.

We do not agree. The EIS identifies existing conditions along the proposed route in section 4 and analyzes potential short- and long-term impacts associated with construction and operation of the project in section 5.

Comment Summary S19-3: The FERC and the applicant should conform to Federal and state law.

S19-3 We believe we have provided for the protection of land, wildlife, and natural resources in the proposed and recommended mitigation measures identified throughout the EIS. Millennium has also applied for section 401, 402, and 404 permits and the project is under review by the COE and NYSDEC, which will identify additional mitigation measures to protect New York State resources. The NYSDEC issued its section 401 Water Quality Certificate on December 8, 1999. We believe the intent of New York State law is being met and that Millennium is cooperating with state and local agencies.

Comment Summary S19-4: The DEIS fails to mention or discuss that the Hudson River is designated as Federal Superfund site.

S19-4 Comment noted. See revised sections 4.3.4 and 5.3.4 of the FEIS.

Comment Summary S19-5: the DEIS fails to address how the trenching and moving of contaminated sediments within the Hudson River will cause further environmental impact through resuspension in the water column.

S19-5 Comment noted. Section 5.3.4 of the FEIS has been expanded to include additional discussion of the predicted effects of resuspension of contaminated sediments. See response to comment G80-4.

Comment Summary S19-6: the DEIS fails to mention if EPA has been or will be contacted regarding the pipeline project and fails to address whether the applicant will seek all necessary approval from the EPA before any disruption of the Hudson River occurs.

S19-6 The EPA is on our mailing list and has received copies of the NOI, DEIS, SDEIS and FEIS. In addition, Millennium has consulted with the EPA, which has commented on the project (see comment letter F9). As stated in section 2.7 of the DEIS, Millennium would obtain the necessary permits for activities that are regulated by the EPA and other Federal agencies.

Comment Summary S19-7: The proposed plan to cross the Hudson River entails mixing up, re exposing, and dredging the contaminated soils and sediments of this waterbody.

See response to comment G80-4.

Comment Summary S19-8: The DEIS fails to address potential public health and environmental hazards associated with trench excavation plans in the Hudson River.

The potential for long term health effects is minimal because the construction would occur within a three-month period. With the large volume of water in the Hudson River and the fairly low concentrations of contaminants in the sediments, the likelihood of severe biological effects is minimal although trenching would likely result in some migration of contaminated sediments.

Comment Summary S19-9: If the applicant plans to proceed with the proposed plan they must get a permit from New York state, the COE, and fully comply with permit requirements under New York State and Federal law.

S19-9 Comment noted. See section 2.7 and table 2.7.1 of the FEIS for the status of needed permits from Federal and state agencies.

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Comment Summary S19-10: As indicated in the Riverkeeper's comments, the proposed pipeline route will have a detrimental impact on species who rely on Haverstraw Bay and the Hudson River for their survival and it should be rejected as the crossing point.

S19-10 See response to comment S12-12.

Comment Summary S19-11: The DEIS does not explain precisely how it will cross publicly owned trails, forest, open space, parkland, and other residential areas nor legal authority under which New York State and local public property will be taken for the project.

S19-1 If the Commission certifies the project, Millennium has the right to acquire the land necessary to construct and operate the pipeline under section 7 of the NGA.

Comment Summary S19-12: The DEIS fails to address what "reasonable efforts" have been made by the applicant to acquire land and property from private owners before they make use of State's eminent domain procedure law.

S19-12 Millennium would attempt to secure right-of-way easements with all land owners. As stated in section 2.3.2 and 5.8.1.1 of the EIS, if the necessary land or easements cannot be obtained through good faith negotiations with landowners, Millennium may use the right of eminent domain granted to it under section 7(h) of the NGA and compensation would be determined by the court according to state law. The land owner would continue to hold title to the land and Millennium would retain rights to the easement. The FERC would not hold title to either the land or the easement. The amount of compensation for the easement is beyond the scope of the EIS and would be determined between the landowner and Millennium or by an appropriate court.

Comment Summary S19-13: The impacts of construction on traffic and air pollution must be more thoroughly analyzed and available for public comment and scrutiny. Environmental justice has not been adequately addressed.

S19-13 Comment noted. Sections 4.8.2 and 5.8.2 of the FEIS have been expanded to better characterize the existing environment and proposed construction in Yonkers and Mount Vernon. The SDEIS included a traffic analysis for the 9/9A Proposal (part I, section 5.7.4). Most impact in any one area of construction would be short-term, lasting only a few days, as in-street construction would progress at about 200 feet per day. Unlike standard overland construction techniques, this segment of the pipeline would be installed one joint at a time. Trenching would be limited to that needed to install the pipeline and backfill would be completed as soon as the pipe is installed in the trench. Access to shops and homes may be temporarily limited during actual pipe installation, but would not be cut off during construction. Environmental Justice implications are discussed in section 5.10 of the EIS.

Comment Summary S19-14: No mention is made about the type of treatment, where treatment would occur and under what conditions treatment would occur if the NYSDEC determines that the Croton River contains microorganisms and the applicant plans to treat this water prior to discharge in the Bronx River.

S19-14 Hydrostatic test water discharges are regulated under the NPDES program of the EPA, which in New York has been delegated to the state. Therefore, all hydrostatic test water discharges would be in compliance with the requirements stipulated in Millennium's NPDES permit. The fact that Millennium must construct its project in compliance with other Federal and state permits is stated in section 2.7 of the EIS.

Comment Summary S19-15: The DEIS must address whether a SPDES permit will be required to discharge pollutants (PCBs, heavy metals, pesticides, and semi-volatile organic compounds) into a State's navigable water, the Hudson River.

S19-15 It is the responsibility of the regulating authorities to determine the conditions for acquiring a permit and whether the current plans satisfy the permit criteria. Millennium filed applications with the NYSDEC and the COE in November 1998 for approval with the requirements of the CWA, which includes the NPDES and SPDES permits (see section 2.7 of the EIS). No pollutants as described above would be discharged into the Hudson River as part of proposed construction. Millennium has obtained its section 401 water quality certification from the NYSDEC and would obtain its SPDES permit for discharge of hydrostatic test water before construction.

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Comment Summary S19-16: The DEIS fails to discuss in detail how close the pipeline will be to the Old Croton Aqueduct and what precautions will be taken to preserve the integrity of the this aqueduct.

S19-16 The pipeline would cross under the Old Croton Aqueduct at MP 395.4 in Croton-on-Hudson, Westchester County. Millennium states that the site-specific plan for the crossing is being developed in consultation with the Old Croton Trailway Site Manager, New York SHPO, the NYCDEP, and the NYOPRHP.

Comment Summary S19-17: The applicant must follow state law that requires mitigation of impacts on the Old Croton Aqueduct and the mitigation steps must be included in the FEIS.

S19-17 All analyses and assessments are being conducted in keeping with the intent of the New York State Historic Preservation Law. The State of New York would also have an opportunity to comment on the crossing of the Old Croton Aqueduct during easement negotiations with Millennium. However, it is not uncommon for the Commission to certificate a project conditioned on the completion of consultation and the development of final site-specific mitigation plans.

Comment Summary S19-18: The New Croton Aqueduct is not abandoned. Mitigation strategies for crossing this aqueduct must be addressed in the FEIS, along with the details of the Croton Water Filtration Plant Project. This plant is needed to filter and disinfect New York City water that comes through the New Croton Aqueduct.

S19-18 Comment noted. The DEIS incorrectly referred to the New Croton Aqueduct as abandoned instead of referring to the Old Croton Aqueduct as abandoned. The FEIS has been corrected. The New Croton Aqueduct would be crossed three times in Westchester County in areas where the aqueduct is deeply buried (e.g., 95, 40, and 140 feet below the ground surface). According to the FEIS for the Proposed Croton Water Treatment Plant, issued in May 1999, the selected site will be located in the Van Cortlandt Park in the Bronx, about 5 miles south-southwest of the terminus of the Millennium Project in Mount Vernon, New York.

The NYCDEP has ultimate responsibility for working with Millennium to ensure that construction or operation of the pipeline would not unduly interfere with any plans for improvements of the New Croton Aqueduct. The NYCDEP has not filed any comments indicating that this is an issue.

Comment Summary S19-19: The applicant must address questions and concerns about safety and disruption at the crossing sites of the Catskill, New Croton, and Delaware Aqueducts.

S19-19 The FEIS includes a description of the proposed site-specific crossing plan for the aqueducts and discusses alternatives to increase the distance from the Catskill Aqueduct where it is paralleled and a route variation (Catskill Aqueduct) to change the crossing location(see SDEIS section 6.3 and part II, section 4). Neither variation appeared feasible. Millennium prepared a site-specific plan for the crossing of the Catskill Aqueduct. Millennium is funding an independent engineering analysis of the plan, which will be reviewed by the NYCDEP. The currently proposed plan is detailed in section 5.3.5 of the FEIS. Additional protection measures may continue to be worked out with the NYCDEP regarding the Catskill Aqueduct crossing (MP 418.3) and would be submitted as part of the finalized site-specific crossing plans. The New Croton and Delaware Aqueducts are in a deep tunnel sections below Millennium's pipeline at the proposed crossing. This would provide adequate protection for these aqueducts.

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INDIAN NATIONS

I1 SENECA NATION OF INDIANS – D. Ray (5/20/99)

Comment Summary I1- We have had no correspondence from Millennium nor were we invited to attend the May 18, 1999 public meeting.

I1-1 To our knowledge, Millennium contacted the Seneca Nation in December 1997 and March 1998, and provided additional information requested by the Seneca Nation in response to these contacts. Millennium provided additional information to you directly in May 1999 and states that it contacted you in July to discuss the route and Seneca Nation properties.

Comment Summary I1-1: The proposed project could affect us environmentally. Therefore, we would like to request a 6 month extension so that our Natives may perform our own investigations.

I1-2 See response to comment I1-1. The Commission granted an extension of the comment period on the DEIS from June 7 to June 22, 1999. Comments filed after that date will be addressed where possible up until publication of the FEIS. The comment period for the SDEIS (issued March 2001) ended April 30, 2001. Since Millennium would obtain easements across affected properties, we believe you would have additional time to evaluate impact of the pipeline on any Seneca Nation property that may be affected.